

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3554 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

DEEPAK NITRATE LIMITED

Versus

REGIONAL PF COMMISSIONER

Appearance:

1. Special Civil Application No. 3554 of 1996
MR KM PATEL for Petitioner No. 1
MR YN RAVANI for Respondent No. 1
MR ASIM J PANDYA for Respondent No. 1
MR RD DAVE for Respondent No. 2
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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 15/10/2004

ORAL JUDGEMENT

Heard learned advocate Mr KM Patel for the petitioner. None appears for the respondents. In this petition, the petitioner has challenged the order dated 4.4.1996 made by the First Respondent under section 7-A

of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ["the PF Act, 1952' for short]. In view of the amendment made in the PF Act, 1952, section 7-I provides for an appeal to the Tribunal against the order made by the Regional Provident Fund Commissioner under section 7-A of the PF Act, 1952. Therefore, now, the petitioner shall have to avail the the alternative statutory remedy of appeal available to it. Therefore, on that ground alone, this petition is not entertained since the petitioner is having an alternative statutory and equally efficacious remedy of appeal to the Tribunal under section 7-I of the PF Act, 1952. Said amendment has come into force after filing of the petition, with effect from 1.7.1997. The petition was filed by the petitioner on 9.5.1996. This Court passed interim order on 1.8.1997 staying the operation of the order in question dated 4.4.1996.

Therefore, now, it will be open for the petitioner to approach the Tribunal under section 7-I of the PF Act, 1952 within two months from today. Meanwhile, the interim orders made by this Court on 1.8.1997 shall continue to operate till the matter is examined by the Tribunal on interim stay application that may be filed by the petitioner before it. The Tribunal is directed to decide the appeal which may be filed by the petitioner on merits. With these observations and directions, this petition is disposed of without observing anything on merits. Rule is made absolute to the aforesaid extent with no order as to costs.

(H.K. Rathod, J.)

Vyas